

REMARKS

Claims 1 and 2 are pending. Claim 1, the only independent claim, has been amended. Favorable reconsideration is requested.

Claims 1 and 2 were rejected under 35 U.S.C. § 103 over U.S. Patent 6,516,193 (Salmela et al.) in view of U.S. Patent 6,097,937 (Sawyer).

Support for the amendment to claim 1 can be found at least in the specification at, e.g., page 15, lines 16-18.

Amended claim 1 recites, *inter alia*, that “the discount rate calculation unit increases the charge discount rate of the user of the base station as the total time for sending the specific use identification signal becomes shorter or as the usage time or the amount of packet use of a general user other than the user of the base station becomes larger.” As recited in amended claim 1, “*a resource of the base station is actively opened by the user of the base station to the general user when the user of the base station does not use the base station.*” (Emphasis added). This is advantageous to the user because it allows a charge to be paid by the user of the base station to be suppressed (page 15, lines 16-19 of the original specification) by the feature wherein the charge discount rate of the user of the base station is increased as the total time for sending the specific use identification signal becomes shorter or as the usage time or the amount of packet use of the general user other than the user of the base station becomes larger.

Applicants have found no teaching in Salmela that “the discount rate calculation unit increases the charge discount rate of the user of the base station as the total time for sending the specific use identification signal becomes shorter or as the usage time or the amount of packet use of a general user other than the user of the base station becomes larger *so that a resource of the base station is actively opened by the user of the base station to the general user when the user of the base station does not use the base station,*” (emphasis added) as described in the amended claim 1.

With reference to claim 1 and Sawyer, the position was taken in the Office Action, at page 5, lines 4-6 from the bottom, that “if the private cell was congested (i.e. the usage time or amount of packet use of another user becomes larger) the private user is charged at the preferential rate plus a surcharge, therefore the discount rate is increased; Fig. 4, Col. 5 lines 57-65 [of Sawyer]”.

However, this portion of Sawyer is referring to the situation in which the private system is inoperative or *degraded*, in which case the method moves to step 47 where the call is charged at the preferential private rate (column 5, lines 54-56) and that if the degradation in performance is due to congestion in the private system (column 5, lines 57-58), the public system operator may choose to *apply a surcharge to such “spill-over” calls* which raises the effective rate to a level somewhat less than the public rate (column 5, lines 60-62).

That is, in this case, in Sawyer the *surcharge* (applied to the “spill-over” calls due to congestion) *raises* the effective rate from the preferential private rate to a level somewhat less than the public rate. The “spill-over” calls due to congestion are charged at a raised rate, which is raised to the level somewhat less than the public rate and which is the preferential rate plus the surcharge. In this situation in Sawyer the discount rate is *not* increased but is *decreased*. Thus, applicants submit that the position taken in the Office Action that “the discount rate is increased” in the cited portion of Sawyer is not correct.

In addition, applicants have found no teaching or suggestion in Sawyer that “*a resource of the base station is actively opened by the user of the base station to the general user when the user of the base station does not use the base station,*” (emphasis added) as recited amended independent claim 1.

For at least the foregoing reasons, amended independent claim 1 is believed to be patentable over Salmela and Sawyer, taken individually or in combination. Claim 2 depends from independent claim 1 and is believed patentable for at least the same reasons as independent claim 1.

In view of the above amendments and remarks, applicants believe the pending application is in condition for allowance and entry of the amendment is respectfully requested.

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Respectfully submitted,

By Joseph W. Ragusa
Joseph W. Ragusa
Registration No.: 38,586
DICKSTEIN SHAPIRO LLP
1633 Broadway
New York, New York 10019-6708
(212) 277-6500
Attorney for Applicant